

Montpelier Development Review Board
October 17, 2005
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair; Alan Blakeman; Douglas Bresette; Jack Lindley; Guy Teschmacher; Kenneth Matzner, and Roger Cranse
Staff: Stephanie Smith, Administrative Officer

Call to Order

The meeting was called to order by Mr. Zalinger.

Minutes of October 03, 2005 Meeting

Mr. Lindley made a motion to accept the minutes of the October 3, 2005. Mr. Blakeman seconded the motion. The minutes were approved by a vote of 6-0 (Mr. Cranse abstained).

I. Consent Agenda

a. Site Plan and Design Review

Property Address: 89 State Street
Applicant: Greg Lord for Vermont Mutual Insurance Co.
Property Owner: Vermont Mutual Insurance
Zone: CB-I/DCD

- Proposed alterations to existing landscaping
- DRC recommended approval as submitted

Interested parties: Greg Lord, Brian Eagan

Mr. Zalinger asked whether the applicant concurred with the DRC recommendations. Greg Lord said that the applicant concurred. Ms. Smith said that, in addition to design review, the application was for site plan review. She said that the staff recommended that, prior to the issuance of a zoning permit, a financial guarantee be provided for the landscaping materials. Mr. Zalinger asked whether the application had been warned for site plan review. Ms. Smith said that she believed that the initial warning included site plan review. Mr. Zalinger asked whether the applicant had any issue with a requirement for a financial guarantee. Mr. Lord said that the applicant did not have an issue with such a requirement. Mr. Cranse asked what the staff's issue was in relation to the use of the burning bush species. Ms. Smith said that she just wanted to point out that the tree would not generally be considered as a ground cover and might not provide the effect that the applicant desires. Mr. Lord said that the shrub will be used in the front of the building to cover the foundation.

Mr. Lindley made a motion that the Board grant site plan and design review approval to the application with the staff recommendations. Mr. Bresette seconded the motion. Mr. Zalinger asked whether the motion included the requirement for the financial guarantee. Mr. Lindley said that it did. The motion was approved by a vote of 6-0 with Mr. Zalinger abstaining.

b. Design Review

Property Address: 623 Stone Cutters Way
Applicant: John Kerin for Hunger Mountain Coop
Property Owner: Hunger Mountain Coop
Zone: RIV/DCD

- 13.3 s.f. wall sign on the roadside of existing building and associated lighting
- DRC recommended approval as submitted

Interested parties: Kari Bradley, Hunger Mountain Coop

Ms. Smith described the request for design review approval for the proposed installation of a 13.3 square foot (2' 6" x 5' 4") wall sign on the west elevation facing Stone Cutters Way. She said that the DRC recommended approval of the project as submitted.

Mr. Blakeman made a motion that the Board grant design review approval for the wall sign. Mr. Matzner seconded the motion. The motion was approved unanimously.

II. Public Hearing - Conditional Use Review

Property Address: 305 State Street
Applicant: Mark Billian
Property Owner: Linda Berger and Nick Marro
Zone: MDR

- Addition to an existing non-conforming residential property

Interested parties: Mark Billian and Nick Marro

Ms. Smith explained that a conditional use review was required for this application (pursuant to Section 302.B of Montpelier's Zoning and Subdivision regulations) because the existing single family home is non-conforming. She said that the proposed addition will meet the setback requirements, but the existing house does not meet setbacks.

The Board considered the conditional use criteria and the site plan provisions.

1. *Capacity of existing or planned community facilities.* The additional room will increase the number of bedrooms to four. This addition will not have adverse impacts on the capacity of existing or planned community facilities.
2. *Character of the area affected.*
 - a. *Performance standards in 814*
 - I. *No use shall emit noise at the property line in excess of the standards set in the Montpelier code of Ordinances, Chapter 11, Article 10 [814].*
 - ii. *Emit odor which is offensive at property line [814]*
 - iii. *Emit dust or dirt at the property line [814]*
 - iv. *Emit smoke in excess of Ringmann Chart no.2 [814]*
 - v. *Emit noxious gasses which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to injure or damage property, business or vegetation*
 - vi. *Emit lighting or signs which cause undo glare, which could impair the vision of a driver of any motor vehicle or are offensive to the neighborhood [814]*
 - vii. *Cause fire, explosion, or safety hazard, or create electrical interference [814]*
 - b. *Site plan review standards in 506.C.* There are no expect impacts on the Site Plan Review Criteria.
 - c. *Compatibility with existing and proposed development for the area [504].*
 - d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
 - e. *Traffic generated per unit [504].*
 - f. *The noise generated per unit [504]*

- g. *Any factors judged to have an adverse impact on the area [504]*
- h. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].*

The property is in the Medium Density Residential zoning district and will continue to be used as a single family residence. There will be no adverse effect on the character of the area. As the staff report notes, there will be no adverse impacts related to the performance standards.

- 3. *Traffic on roads and highways in the vicinity.* There will be no adverse impacts on traffic.

Mr. Lindley made a motion that the Board grant conditional use review approval to the application. Mr. Teschmacher seconded the motion. The motion was approved unanimously.

III. Sketch Plan Review

Property Address: 123 Robinhood Circle
Applicant: Douglas C. McArthur
Property Owner: Douglas C. McArthur
Zone: MDR

- Two lot subdivision of a 2.3 acre parcel into one 0.39 acre parcel with a single family residence and one 1.92 acre parcel with an existing shed.

Interested parties: Douglas McArthur

Ms. Smith described the application for sketch plan review for a two-lot subdivision of a 2.3 acre parcel. She said that the subdivision will result in a 0.39 acre lot containing the existing single family residence and a 1.92 acre lot containing an existing shed. She said that the difference between this application and a previous application was that this application proposed the relocation of an existing gazebo so that a variance would not be needed.

Mr. Zalinger asked whether the conditional and final reviews could be combined with this review. Ms. Smith said that the Board had requested the new sketch plan review to evaluate the relation of the structures to the property lines and setbacks, but that the Board can combine the conditional and final reviews. The Board reviewed the plans and noted that the proposed lot lines had not changed from the previous review. Mr. Zalinger said that the Board appeared to view the plan favorably and suggested that the applicant request a combined conditional and final review.

IV. Public Hearing-Appeal of Administrative Officer Decision

Property Address: 51 Berlin Street
Appellant: Michael Carriveau
Permittee, Property Owner: Damartin Quadros, John and Maria Quadros
Zone: GB

- Appeal of the Administrative Officer's Decision to issue a Certificate of Compliance

Interested Parties: Michael Carriveau, Damartin Quadros, and Stephanie Smith, Administrative Officer

Mr. Zalinger recused himself from participation in the hearing. Ms. Smith stepped down as well, as it was an appeal of her decision. Mr. Lindley, serving as chair, asked Ms. Smith to summarize the Administrative Officer's comments related to the appeal. Ms. Smith referred the Board to the staff report. Ms. Smith said that she understood that Mr. Carriveau's appeal was based upon the Administrative Officer's decision to issue a temporary Certificate of Compliance and that the following items from the Board's decision were not met:

- a. Administrative Officer received confirmation that the existing root systems and vegetation in the

soils uphill have been preserved by sealing the cut surfaces of the existing stumps.

- b. Administrative Officer received written confirmation from Knight Consulting Engineers that the installed fence ensures the safety of the uphill users.

Ms. Smith said that the staff had received a memo and information from Green Mountain Landscaping concerning the maintenance of the soils uphill from the ledge cut, and the preservation of the vegetation and sealing the cut surfaces of the existing stumps. She said that their memo indicated that they installed the jute netting on the slope behind Dunkin Donuts to stabilize the bank and verified that the cut stumps were sealed to preserve the existing root systems. Ms. Smith said that the staff also had received two letters from Eric Goddard, Knight Consulting Engineers, concerning the installed fence. She said that the first letter dated 2/22/05 suggested, that a fence should be extended east past the two small trees straddling the big tree above "your cut ledge." Ms. Smith referred to photo #5 (enclosed) and said that it showed the location of the large tree above the cut ledge and the location of the installed chain link fence on the Dunkin Donuts property. She explained that it appeared that, if the fence were to be extended to the location as suggested by Mr. Goddard, it would be located on property owned by another landowner. Ms. Smith said that the letter suggested that a cedar hedge be installed on that property to act as a screen as well as a barrier for the adjacent residential property, and would further stabilize the slope. She said that she conducted a site inspection and noted that this was carried out by the applicant, presumably with the permission of the adjacent property owner of 46-48 Prospect Street. Ms. Smith said that a temporary safety rope barrier was also to be installed and Knight Construction confirmed that it was. She said that a wire fence was also installed, presumably by the adjacent property owner.

Ms. Smith said that she conducted a site inspection, reviewed the letters and issued a temporary Certificate of Compliance because some of the landscaping that had died needed to be replaced. She added that she did note, while inspecting the site, that parking is not occurring in accordance with the designated parking spots. She said that she continued to work with the City Attorney and the property owners to resolve that issue. She said that parking is occurring at locations that were not marked for parking of vehicles.

Mr. Cranse asked Ms. Smith whether her position was that Knight Engineering approved the rope and plantings. Ms. Smith said that Knight Engineering determined that the measures were sufficient as a safety measure. She said that she determined that the work was compliant based upon the letter saying that it ensured the safety of the uphill users. Mr. Bresette asked whether Green Mountain Landscaping certified that the root system had been protected. Ms. Smith said that was her understanding of the letter that they provided.

Mr. Lindley noted that the Board had copies of Mr. Carriveau's memo. Mr. Carriveau said that the Board also had two photographs of the site. He said that they show that the area of green vegetation stops on one portion of the slope and at least one large tree has died. Mr. Carriveau read from his memo. He said that he and the Board had agreed to a fence, not a hedge. He said that the hedge will never be adequate because it will not grow enough to close a 25-foot open span. He said that a large tree has died and was broken off and that this was predicted by the forester, Mike Meyers. Mr. Carriveau said that the other trees are at risk due to damage to the roots. He said that 18 parking spaces were authorized and all other parking is in violation of the City ordinances. He said that the parking violations have occurred repeatedly and that he had called Ms. Smith repeatedly. He said that Ms. Smith sent a letter, but the illegal parking continues and has been documented. He said that the regulations should be enforced by the Administrative Officer.

Mr. Carriveau said that, if the Board approves the Certificate of Compliance knowing of the dangers that exist, the Board will be as culpable as Mr. Quadros' engineer and landscaper. Mr. Carriveau said that the City should stand by the enforcement of the City codes.

Damartin Quadros said that he wanted to know whether the escrow funds will be used to address the part of the ledge

that is there. Mr. Carriveau said that he had a year to take care of that. Mr. Quadros asked why Mr. Carriveau cut the rope that was put there for safety. Mr. Carriveau said that he did not cut the ropes, but untied them because he had not given permission for them to be installed on his property. Mr. Lindley said that the Board would not be deciding property line disputes.

Mr. Matzner made a motion that the Board close the public hearing and take the matter up in a deliberative session. Mr. Blakeman seconded the motion. The motion was approved by a vote of 6-0.

V. Public Hearing - Site Plan Review for Development within a Planned Development

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| Property Address: | Overlook Drive |
| Applicant: | L.M. Enterprises and Overlook Condominium Site Owners Association |
| Property Owner: | L.M. Enterprises and Overlook Condominium Site Owners Association |
| Zone: | MDR |
- Proposed expansion of building envelopes for accessory structures

Interested parties: Gail and Wayne Rabideau, Daniel Currier, Mr. and Mrs. Graves

Ms. Smith described the proposal to alter a previously approved planned residential development consisting of nine residential dwelling units on 4.77 acres. She said that the initial permit was granted in 2000 under regulations that did not include the PRD provisions that exist today. Mr. Zalinger asked whether there was an opportunity for the Board to waive setbacks under the PRD provisions. Ms. Smith said that the Board could do that, but the setback requirements applied to the edges of the 4.77 acre parcel and not to areas between the individual units. Mr. Zalinger asked why the Board could not consider an amendment to the PRD rather than have each building owner apply separately for changes to the buildings. Ms. Smith said that the Board can waive the setbacks for the proposed building envelopes shown on the plan. She said that the staff recommended that each property owner then return to request zoning permits pursuant to the Board's PRD amendment approval. Roger McCormick, representing the applicants, asked whether the requests would be for zoning permits or for building permits. Ms. Smith said both would be required. But that the Board could decide to require only building permits. She said that the process has changed since the original zoning permit was issued. Mr. Bresette asked what the value of the zoning permit process would be. Ms. Smith said that the records would document what was approved for each building and that the records are used for title searches.

Gail Rabideau, a property owner said that she supported the project, but preferred that only building permits be required. Ms. Smith said that the review of a zoning or building permit gives the Administrative Officer an opportunity to ensure that the proposed development will be within the building envelopes. Mr. Zalinger said that the Board could grant an amendment to the PRD permit that expands the building permit for each of the buildings so that each unit does not have to meet variance criteria. He said that it would be better administratively to maintain clear records by requiring both zoning and building permits. He said that he did not think that the cost would be excessive. Mr. McCormick asked whether each individual property owner would have to appear before the Board. Mr. Zalinger said that they would not have to do so.

Mr. Blakeman said that he did not see why there was a need for the zoning permit. Ms. Smith said that the permit would be issued by the Administrative Officer for each individual unit so that there was clear information on what had been approved. Mr. McCormick asked whether it would be reasonable to issue the zoning permit to the Association and for the Association to be co-applicant with the unit owners for the building permits. Mr. Bresette said that process would result in the loss of specific information on each unit. He said that information is required of every other building in the city. Mr. Zalinger said that the Board cannot issue a blanket permit for all of the structures within the building envelope because there could be issues raised by the development (for example, a four-story structure) that would not be reviewed.

Mr. Lindley made a motion that the Board amend the existing PRD to waive the 20' side yard setback to within 10' of the property line. Mr. Bresette seconded the motion. The motion was approved by a vote of 5-1 with Mr. Blakeman voting against the motion and Mr. Zalinger abstaining.

Adjournment

The Board unanimously approved a motion to adjourn.

Respectfully submitted,

Stephanie Smith
Administrative Officer

These minutes are subject to approval by the Development Review Board. Changes, if any, will be recorded in the minutes of the meeting at which they are acted upon.